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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA
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8 ANDREA L. M.,

9 Plaintiff(s),

10 v.

11 MARTIN O'MALLEY,

12 Defendant(s).

Case No. 2:24-cv-01052-NJK

Order

[Docket No. 1]

13 Plaintiff has requested authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis*.
14 Docket No. 1.

15 The Court may authorize the commencement of an action without prepayment of fees and
16 costs or security therefor, by a person who has shown that she is unable to pay such costs. 28
17 U.S.C. § 1915(a)(1). A determination of whether the plaintiff has shown an inability to pay is a
18 matter left to the discretion of the court. *See Rowland v. California Men's Colony, Unit II Men's*
19 *Advisory Council*, 506 U.S. 194, 217-218 (1993). In exercising that discretion, the Court evaluates
20 the income and assets to which the plaintiff has access, including those of a spouse. *See, e.g.,*
21 *Flores v. Colvin*, 2014 U.S. Dist. LEXIS 93236, at *3-4 (D. Nev. May 22, 2014). While an
22 applicant need not be totally destitute to qualify for *in forma pauperis* status, she must demonstrate
23 that she cannot pay those costs while still providing for the necessities of life. *Adkins v. E.I.*
24 *DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

25 The application in this case identifies income of \$3,520 per month from Plaintiff's spouse,
26 Docket No. 1 at 1, which significantly exceeds the federal poverty guidelines for a family of three,
27 *cf. Flores*, 2014 U.S. Dist. LEXIS 93236, at *5 (comparing income to poverty guidelines). That
28 monthly income is also well above the amounts that have led to denial of *in forma pauperis* status.

1 *See, e.g., Brunson v. Soc. Sec.*, 2019 WL 6709544, at *1 (D. Nev. Oct. 31, 2019) (denying *in forma*
2 *pauperis* status based on monthly income of \$1,397), *adopted*, 2019 WL 6700193 (D. Nev. Dec.
3 9, 2019). Moreover, while the application indicates that the household's monthly expenses exceed
4 income, the application provides exorbitant monthly expenses for utilities (\$900) and appears to
5 identify health costs twice (\$240 provided twice). At bottom, a financial picture has not been
6 painted that a family of three with a monthly household income of \$3,520 cannot afford to pay the
7 \$405 filing fee.

8 Accordingly, Plaintiff's application to proceed *in forma pauperis* is **DENIED**. Plaintiff
9 must pay the filing fee by August 19, 2024.

10 IT IS SO ORDERED.

11 Dated: July 3, 2024

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15 Nancy J. Koppe
16 United States Magistrate Judge
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